

**Request for Proposals (RFP) 09 90031
Suffolk County Purchasing Division on behalf
of the Department of Economic Development & Workforce Housing is
Seeking Proposals For
Advertising and Marketing Services**

Timeline

Issue Date: November 19, 2009

Technical Questions Due: December 3, 2009
Must be submitted in writing (fax/email acceptable) to the Suffolk County Purchasing Office

Proposer's Conference: December 17, 2009
(Non-mandatory) 10: 00 AM
Suffolk County Purchasing Office

Proposal Due Date: January 14, 2010
3:30 p.m.

Contact Information

Name: Kathleen C. Koppenhoefer	Main Tel. (631) 852-5196
Title: Government Liaison Officer	Direct Tel. (631) 852-5463
Suffolk County Purchasing Office	Fax: (631) 852-5221
360 Yaphank Avenue, Yaphank, NY 11980	Email: koppenhoefer@suffolkcountyny.gov

Response Package Requirements

- Submissions to be sent to Suffolk County Purchasing Office
- Number of Copies: Original plus 12 copies
- The Purchasing RFP No. (located on upper right hand corner of this page) must be on:
 - All outer mailing envelopes/package
 - Original Response and all copies on the binder/cover page
- Original must be labeled "ORIGINAL"
- Original must contain the actual ink signed and notarized required County forms
- All copies must be complete copies of the Original
- Fee Schedules, original and required number of copies are to be in a separate, single, sealed packet to be included with the Original Proposal ONLY
- Proposals should be submitted in a tabbed and labeled binder, not permanently bound
- Transmittal letter and all required forms should be placed in First Tab of Binder
- Do NOT return RFP document. This is for you to keep for reference.

Late Proposals Will Be REJECTED

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Note: All required forms may be obtained at www.suffolkcountyny.gov:
Click on Bids and Proposals and follow the instructions to register and download the documents

Section I Administrative Information

1. Purpose of RFP

The County of Suffolk ("County"), on behalf of the Suffolk County Department ("Department") set forth on page one, invites proposals ("Proposal(s)") from qualified companies ("Proposer") to provide services ("Services"), as described in Section IV, entitled "Technical Services Requirements."

The term Contractor ("Contractor") shall mean the successful Proposer who may be awarded a contract pursuant to this RFP.

2. Coordinating Departments

a. Prior to Award of Contract

The Suffolk County Purchasing Office is responsible for coordinating with the Department regarding the issuance of this RFP:

Suffolk County Purchasing Office
360 Yaphank Avenue
Yaphank, New York 11980
Main Tel: (631) 852-5196
Fax (631) 852-5221

Contact: Purchasing Office staff member listed on page one of this RFP.

b. After Award of Contract

The Department is responsible for coordinating with the Suffolk County Attorney's Office and the Contractor regarding the negotiation and execution of the contract.

c. After Execution of Contract

- i. The County will execute an agreement with the Contractor, based on the Model Agreement included in this RFP. Note that the Model Agreement is subject to negotiation and revision, based on the Department's needs and the approval of the County Attorney's Office.
- ii. The Proposal submitted by the Proposal to this RFP, as may be negotiated by the Department, will become the basis for the Agreement.
- iii. The Department is responsible for administration of the agreement.

3. Background Information

- a. Suffolk County, with a population of 1.5 million, is Long Island's eastern-most county, and covers an area of approximately 900 square miles, 20 miles at its widest part and approximately 86 miles in length.

- b. The County of Suffolk is a municipal corporation of the State of New York with an annual operating budget of approximately \$2.6 billion. The County employs approximately 12,000 employees, with main offices located in Hauppauge, Yaphank, Riverhead, and several smaller locations.

4. Evaluation Committee and Award of Contract

The award of any contract will be made in the best interest of the County.
The RFP Evaluation Committee shall include the following:

- a. Suffolk County Legislature Presiding Officer, or his designee; and
- b. Suffolk County Executive, or his designees; and
- c. The Department Head, or his or her designee, of the Department requesting the RFP.

5. Questions and Comments

a. Administrative Questions

Administrative questions (e.g. procedural questions on how to respond to this RFP) may be submitted by telephone or in writing (fax/email acceptable) to the Purchasing Office staff member listed on page one of this RFP.

b. Technical Questions

Technical questions (questions which are specific to the service requested in this RFP) must be submitted in writing (fax/email are acceptable) on or before the date set forth on page one of this RFP to the attention of the Purchasing Office staff member listed on page one of this RFP. Responses to such technical questions will be developed by the requesting Department and issued by the Purchasing Office in the form of an Addendum to this RFP.

- c. No questions or comments should be directed to any County employee or its Contractors or any firm currently in contract with the County regarding this RFP during the RFP process, except as set forth in sub-paragraphs 5.a and 5.b above or as may be requested or permitted by the Suffolk County Purchasing Office and/or the Suffolk County Department of Law. Failure to comply may result in immediate disqualification.

6. Proposer's Conference

A Proposer's Conference (non-mandatory) will be held on the date set forth on page one of this RFP.

Location Suffolk County Purchasing Office
360 Yaphank Avenue
Yaphank, New York 11980

7. Due Date for Proposals

Proposals must be submitted to the attention of the Purchasing Agent listed on page one, by 3:30 p.m. on the date set forth on page one of this RFP.

In the interest of fairness to all participants, no extensions or exceptions will be permitted, unless issued as an Addendum to this RFP and applicable to all Proposers.

8. Number of Copies of Proposal

One original, plus such additional numbers of copies as set forth on page one of this RFP of the responses to Sections II, IV and V, are required to be sent to the Suffolk County Purchasing Office.

Note: Section V, entitled "Fee Schedule," is required to be in a **separate, sealed envelope**, properly labeled.

Do not submit Proposals that are permanently bound.

Proposals shall be prepared avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete, accurate, and reliable presentation. Each response in a Proposal shall clearly identify the section and paragraph number from the RFP to which it responds.

9. RFP Policies and Procedures

- a. It is the County's intent to select the Proposer that provides the best solution for the County's needs. In order for the County to conduct a uniform review process of all proposals, proposals must be submitted in the format set forth below in paragraph 11, entitled "Proposal Format." Failure to follow this format may be cause for rejection of a proposal because adherence to this format is critical for the County's evaluation process.
- b. The Proposer's contract will be in the general format set forth in Section VI, entitled "Model Agreement," but will be subject to final contract negotiations.
- c. The County reserves the right to amend this RFP. The County reserves the right to reject any or all of the proposals, or any part thereof, submitted in response to this RFP, and reserves the right to waive formalities, if such action is deemed to be in the best interest of the County. The County reserves the right to request additional information from any Proposer. The County reserves the right to award negotiated contracts to one or more Proposers.
- d. This RFP is not intended, and shall not be construed, to commit the County to pay any costs incurred in connection with any proposal or to procure or contract for any services.
- e. The decision to award a contract shall be based on the ability of the Proposer to provide quality and needed services and products and to comply with all applicable laws, rules, and regulations, including without limitation the local preference and other Suffolk County local laws set forth in the Section entitled "Suffolk County Required Compliance Forms in Accordance with County Laws."
- f. The award of any contract will be made in the best interest of the County.
- g. Each Proposal will be examined to determine whether it is responsive to the requirements of this RFP. All responsive proposals will be evaluated in accordance with the above criteria.
- h. While the County is under no obligation to contact Proposers for clarifications, it reserves the right to do so. Depending on the number and quality of the proposals submitted, the County, at

the sole discretion of the RFP Evaluation Committee, may elect to interview all or some of the Proposers during the selection process and to request presentations.

- i. Based on the evaluation criteria, the County will not necessarily choose the Proposer(s) with the lowest rates for Services. A competitive range consisting of those Proposals which are acceptable to the County, or which could be made acceptable following written or oral presentations, will be determined.

10. RFP Posted On County Website

Copies are available on-line at: www.suffolkcountyny.gov: click on Bids and Proposals and follow the instructions to register and download the documents. By registering on-line you will automatically be notified of all future addenda. If you should need assistance, please contact the Purchasing Office for help.

11. Proposal Format

a. Transmittal Letter (one original plus number of copies listed on page one)

A transmittal letter is a letter on the Proposer's stationery. A corporate officer or an authorized agent of the Contractor must sign the transmittal letter. The transmittal letter must state the contact person who will be responsible for answering all questions of the County Evaluation Committee. Include the telephone number, fax number, and e-mail address for such contact person.

b. Suffolk County SCEX Form 22 Contractor's/Vendor's Public Disclosure Statement (3 pages)

SCEX Form 22 is included in the Section entitled "Suffolk County Required Compliance Forms in Accordance with County Laws."

A corporate officer, or an authorized agent of the Proposer, must sign one (1) original of form and have it notarized.

Please note that any Proposers who are not-for-profit corporations are not required to complete this form.

c. Suffolk County RFP or Bid Certification Form SCPD-7

This form must be signed by a corporate officer or an authorized agent of the Proposer. Form SCPD-7 is included in the Section entitled "Suffolk County Required Compliance Forms in Accordance with County Laws."

d. Living Wage Forms (mandatory forms)

These forms are included in the Section entitled "Suffolk County Required Compliance Forms in Accordance with County Laws."

If you answer yes to LW-38, then you MUST answer questions 12 and 13 on LW 1 form.

The Labor Department's Living Wage Unit may be reached at (631) 853-3808 for specific questions.

e. Lawful Hiring Forms (mandatory forms)

These forms are included in Section entitled "Suffolk County Required Compliance Forms in Accordance with County Laws."

The Labor Department's Lawful Hiring of Employees Unit may be reached at (631) 853-3808 for specific questions.

f. Contractor's Statement of Applicability of Local Preference Law - Section A4-13 of the Suffolk County Administrative Code (Local Preference Law)

Local Preference Law - Section A4-13 of the Suffolk County Administrative Code establishes a preference program for Suffolk County consulting contracts. This preference program requires all contracts for professional consulting services (engineering, architectural, planning, legal, and accounting, etc.) to be awarded to firms located and doing business within Suffolk or Nassau County, except where no local consultant has the necessary expertise or credentials to provide the needed service, or where the local consultant's response to a Request for Proposals (RFP) exceeds the otherwise lowest response by more than 10%. The local law contains specific definitions and language relative to application of this law which interested parties should review. The laws of Suffolk County are available free of charge at <http://legis.suffolkcountyny.gov/> under the "Search the Laws of Suffolk County" tab.

g. Proposer Profile/Response to Questions set forth in the RFP Section entitled "Contractor Profile"

Proposers's responses will be used in the County's evaluation of the Contractor's general qualifications.

h. Contractor's Proposed Technical Services/Response to items set forth in the RFP Section entitled "Technical Services Requirements"

This Section will be used in the County's evaluation of the Contractors' proposed technical services.

i. List (if applicable) of Subcontractors

Identify all subcontractors the Contractor plans to use and the function for which such subcontractors will be responsible. Provide qualifications, including prior relevant experience, for all subcontractors anticipated to be used. Failure to include this information in the Proposal may be grounds for disqualification.

j. Conflict of Interest

Proposers must disclose to the County the existence of any conflicts of interests, whether existing or potential. If none exist, state so. Proposals shall disclose:

- i. Any material financial relationships that the Proposer or any employee of the Proposer has that may create a conflict of interest in acting as a Contractor for Suffolk County.
- ii. Any family relationship that the Proposer or any employee of the Proposer has with any County employee that may create a conflict of interest or the appearance of a conflict of interest acting as a Contractor for Suffolk County.
- iii. Any other matter that the Proposer believes may create a conflict of interest or the appearance of a conflict of interest acting as a Contractor for Suffolk County.

k. Contractor's Fee Schedule - Response to items set forth in the RFP Section entitled "Cost Proposal"

This Section will be used in the County's evaluation of the Contractor's proposed Fee Schedule.

- l.** Proposals shall be prepared avoiding the use of elaborate promotional materials beyond those sufficient to provide a complete, accurate, and reliable presentation. Each response in a Proposal shall clearly identify the section and paragraph number from the RFP to which it responds.

12. Award Criteria

a. General Qualifications: 40 points

Proposer's history, expertise, experience, reliability, financial viability, and references.

See RFP Section II, entitled "Proposer's Profile" for specific requirements.

b. Proposed Technical Services/Products: 40 points

Strategies, methodologies, services offered by Proposer. See RFP Section IV, entitled "Technical Services Requirements" for specific requirements.

d. Fee Schedule 20 points

Separate sealed envelope.

See Section entitled "Fee Schedule Proposal" for specific requirements.

Total 100 points

The Suffolk County Department of Law acts as counsel to the County Evaluation Committee, but does not vote in the selection process.

13. Contract Terms and Conditions

- a.** Reference is made to the Model Agreement set forth in Section VI. The Model Agreement is included to illustrate general terms and conditions, including indemnification and insurance, which will be included in the contract when executed.
- b.** If the Proposer has a concern or question as regards any of the terms and conditions included in the Model Agreement, the Proposer should note such concerns or questions in their Proposal. The Proposal must identify any items relating to the Model Agreement that the Proposer requests be negotiated.
- c.** The Model Agreement is subject to revision arising out of the terms and conditions imposed by law and/or deemed appropriate by the County Attorney's Office.
- d.** Portions of the Proposal, as may be subsequently modified in negotiations with the County, may be included as exhibits in any contracts that the County may execute with the Proposer.

- e. The County will execute a contract with principal contractors only. Any arrangements, including fee arrangements, partnerships, or collaborations between the principal contractor and subcontractors that provide services as part of the Proposal, must be fully disclosed in the Proposal.
- f. The Proposer should not return the Model Agreement with the Proposal.

**14. Use of County Resources to Interfere with Collective Bargaining Activities
Local Law No. 26-2003**

Proposers are advised that the efficient, timely, and nondisruptive provision of goods and services is a paramount financial interest of the County and, as such, the County requires the potential Contractor to protect the County's financial interest by adopting non-confrontational procedures for the orderly resolution of labor disputes, including but not limited to, neutrality agreements, majority authorization card agreements, binding arbitration agreements, fair communication agreements, nonintimidation agreements, and reasonable access agreements.

**15. Non-Responsible Bidder Certification
Local Law 25-90**

The Proposer, upon submission of his/her or their Proposal, understands that he/she or they will be required to set forth whether or not he/she or they have been convicted of a criminal offense within the last ten (10) years. The term "conviction" shall mean a finding of guilty after a trial or a plea of guilty to an offense covered under the provision of Section 143-5 of the Suffolk County Code under "Nonresponsible Bidder." The potential Contractor must read and be familiar with the provisions of Suffolk County Code Sections 143-4 through 143-9.

16. Effective Period of Proposals

All proposals must state the period for which the proposal shall remain in effect (i.e., how much time the County has to accept or reject the proposal under the terms proposed). Such period shall not be less than 180 days from the proposal date.

17. NYS Freedom of Information Law (FOIL)

All submissions for the Counties' consideration will be held in confidence pending final execution of the contract(s). However, fully executed contracts are subject to the New York State Freedom of Information Law (FOIL), codified at Public Officers Law Article 6. Therefore, if a Proposer believes that any information in its submission constitutes a trade secret or is otherwise information which, if disclosed would cause substantial injury to the competitive position of the Proposer's enterprise, and the Proposer wishes such information to be withheld if requested pursuant to FOIL, the Proposer shall submit with its Proposal a separate letter addressed to the primary contact referenced in this RFP, specifically identifying the page number(s), line(s) or other appropriate designation(s) of the Proposal containing such information, explaining in detail why such information is a trade secret or is other information which if disclosed would cause substantial injury to the competitive position of the Proposer's enterprise, and formally requesting that such information be kept confidential. Failure by a Proposer to submit such a letter with its submission will constitute a waiver by the Respondent of any interest in seeking exemption of this information under Article 6 of the Public Officers' Law relating to protection of trade secrets. The proprietary nature of the information designated confidential by the Proposer may be subject to disclosure if it is requested and the County deems it subject to disclosure or if ordered by a court of competent jurisdiction. A request that an entire Proposal be kept confidential

may not be considered reasonable since a submission cannot reasonably consist of all data exempt from FOIL.

End of Text for Section I

Section II Proposer Profile

1. General Information/Proposer's History

- a. Company name and address.
- b. Year company was founded and history.
- c. Total number of employees in company, and the number of employees at servicing office(s).
- d. Location(s) from which services will be performed.
- e. Describe the nature of your organization (e.g. business corporation, not-for-profit corporation, proprietorship, etc.).
- f. Contact person and title.

2. Qualifications and Experience of Personnel

- a. Provide resumes of the account manager and other key staff who will be assigned to this account.
- b. For each professional listed above, describe his/her qualifications and provide information regarding:
 - i. Education;
 - ii. Professional licenses and other affiliations (copies of which shall be submitted with Proposals);
 - iii. Number of years engaged in services relating to the services requested in this RFP;
 - iv. Other relevant work experience or qualifications;
 - v. The role each identified person would play.
 - vi. If you intend to use the services of a sub-contractor, please provide all of the above information for such sub-contractor. Note that the County must pre-approve the use of any sub-contractors.
- c. Describe other accounts involving similar services. Describe the role and experience of key personnel assigned to other similar accounts who will be assigned to this account.
- d. Will temporary staff also be involved? If so, include details of their supervision and training.
- e. If you intend to use the services of a subcontractor, please provide all of the above information for such subcontractor. Note that the County must pre-approve the use of any subcontractors.
- f. In addition, Suffolk County may make such investigations as it deems necessary to determine the ability of the Proposer to perform the work. The Proposer shall furnish to the County, within five (5) business days of a request, all such information and data for this purpose as may be requested. The County reserves the right to reject any Proposal if the information submitted by, or investigation of, such Proposer fails to satisfy the County that such Proposer is properly qualified to carry out the obligations of the contract and to complete the work contemplated therein. Conditional Proposals will not be accepted.

3. Financial Viability

a. Financial Statements

For nongovernmental agencies, submit current financial statements prepared and certified by an independent CPA and/or internal statements if certified statements are not available or have not been issued within the past 12 months.

b. Indebtedness to County, Liens, and Litigation

Submit a statement as to indebtedness, if any, to the County; and a listing of all outstanding liens, if any, against the Proposer. Submit a summary of all litigation, if any, against the Proposer and disposition or outcome of same.

c. Statement Regarding Bankruptcy

Submit a statement disclosing any bankruptcy(ies) filed within the last seven (7) years. The Statement must include the date the bankruptcy was originally filed, the current status, and, if applicable, the date the bankruptcy was discharged.

4. Client History

Provide a list of all clients for whom you have provided similar services within the last three years. For each client, provide the following:

- a.** Client name; and
- b.** Client address; and
- c.** Contact name, title, and telephone number; and
- d.** Description of services provided and time period.

5. References

- a.** From the list provided in response to paragraph 4, entitled "Client History", provide three client references for which you have provided services (current governmental or quasi-governmental agencies preferred). Provide name of the organization, services, contact name and telephone number.
- b.** Provide a list of all contracts with the County of Suffolk within the last five (5) years (regardless of type of service), the time period for those services and your primary County contact.

6. Conflicts of Interest and/or Potential Conflicts of Interest

a. Relationships with Third Parties

Any Proposer to the County of Suffolk is charged with the continuing duty to disclose to the County the existence of any interests it may have, contractual or otherwise, ongoing or previous, with any companies or individuals with whom the County of Suffolk does business with respect to the services required by this RFP. This duty continues for so long as the Proposer is retained on behalf of the County or its employees.

b. Relationships with County Departments/Agencies/Employees

Any Proposer to the County of Suffolk is charged with the continuing duty to disclose to the County the existence of any interests it may have, contractual or otherwise, ongoing or previous, with any County department, agency or employee. This duty continues for so long as the Proposer is retained on behalf of the County or its employees.

End of Text for Section II

Section III Background Information

The Department of Economic Development & Workforce Housing was established in 2004. Its core mission is to advance economic and community development and promote the development of workforce housing for the residents of Suffolk County.

Under the Economic Development and Workforce Housing umbrella are the Divisions of Workforce Housing and Community Development, which focus on the facilitation of rental and for-sale affordable homes Suffolk County residents; the Office of Film and Cultural Affairs, which promotes the film industry and cultural tourism in the County; and Francis S. Gabreski Airport, a general aviation airport that is home to the newly established Hampton Business & Technology Park.

The County's Industrial Development Agency, which promotes commercial development through economic incentive programs, works with the Department in advancing its core mission.

Department responsibilities include the promotion of:

- Attraction and retention of business
- Development of Workforce Homes
- Employer Assisted Housing and Downpayment Assistance Programs
- Promotion of Film and Television Production & Cultural Affairs
- Empire Zone Program
- Industrial Development Agency
- Agriculture and Aquaculture Technology
- Hampton Business and Technology Park
- Francis S. Gabreski Airport
- Downtown Revitalization
- Purchasing/Technical & Contract Assistance
- Utility & Transportation Programs
- Women & Minority Business Assistance
- Community Development

End of Text for Section III

Section IV Technical Services Requirements

1. Overview

The Department is seeking a advertising and marketing company with expertise in all forms of media to assist the Department in the promotion of its programs through the use of print, radio and online sources. The goal of each campaign will be to increase community awareness of the Department and its resources for the County's business community and its constituents.

2. Minimum Requirements for Technical Services Proposals

a. Understanding of the Project

The Proposal must include a statement of work that describes the Proposer's understanding of the Project. The Proposer is expected to discuss its understanding of the proposed "Scope of Work."

- i. The complexity, challenges and problems involved in performing the work.
- ii. Approach and philosophy for dealing with problems.
- iii. Experience dealing with key issues.
- iv. Any additional issues or matters relating to the "Scope of Work" which the Proposer wishes to address.

b. Key Personnel and Staffing

Key personnel identified in the Proposal will be expected to remain assigned to the Project for the term of the Agreement. Requests for a change in key personnel assignments during the term of the Agreement must be approved in advance, in writing, by the County. The Proposal should also include a discussion that outlines staffing levels/man-hour requirements that should be expected on the County level to support the implementation and day-to-day operation of the system. This information will be a recommendation only for discussion purposes. The Proposer should describe other potential burdens that may be placed on the County as regards the servicing of the account.

c. Subcontracts

Services that are to be subcontracted must be clearly defined in the Proposal. The Contractor retains responsibility for all acts and omissions of the subcontractor. The Contractor must obtain the prior approval from the Department for all subcontracts.

The Department may require that subcontracted activities be provided under the terms of a three-party agreement between the Contractor, the Department and the subcontractor.

3. Technical Services Specifications (Detailed Scope of Services)

Proposals must contain, at a minimum, the following information:

- a. An executive summary highlighting the technical aspects of the Proposer's proposal. The executive summary should clearly specify the services the agency is proposing to provide. After providing a written summary of a proposed advertising campaign, the consultant may be required to present a more detailed oral and visual presentation at a scheduled presentation appointment.
- b. Statement of any interpretations, qualifications, assumptions or concerns regarding the provision of advertising services.
- c. Statement and discussion of anticipated campaign difficulties and problem areas, together with potential or recommended approaches for their resolution. Proposers are reminded that alternative proposals will be considered.
- d. Provide a timeline of tasks to be performed. In addition provide an outline/narrative describing each section of the timeline including the tasks that will be performed and who specifically will be responsible for those tasks.
- e. Provide detail as to all prospective subcontractors to be utilized by the Proposer. No part of the work may be assigned, transferred, conveyed, subleased or otherwise disposed of without written approval and review of the sub-agreement by the County. Joint-venture proposals should specifically define areas of responsibility and indicate the lead Proposer. A flow chart should be included.

3. Technical Services/Methodology

- a. Proposers must discuss their capability to provide advertising services including, but not limited to, the creation of advertising strategies and campaigns.
- b. Proposers services must deliver a program that utilizes all modern forms of media including, but not limited to, online, television, radio and print. The market audience is not limited to Suffolk County.
- c. Proposers must compile a Media Plan and Budget.
- d. Proposers must coordinate with the Commissioner (or designee) of the Department who will manage the services to be provided by the Proposer awarded this RFP.
- e. The County anticipates the advertising budget for the Department for calendar year 2010 will be approximately \$200,000.

The Proposers creative campaign - print, radio, online and other - should be reduced or rendered to 8.5x11 paper for inclusion in the proposal documents that are distributed to all members of Evaluation Committee. However storyboards can be utilized if/when making a presentation to the RFP Evaluation

End of Text for Section IV

Section V Fee Schedule

1. Separate Envelope

Your Original, plus all of your required extra copies of the Fee Schedule, should be submitted in one (1) sealed envelope and packaged only in your "Original" proposals set.

Do not include cost information in the body of your Proposal response.

Do not include Fee Schedules in sealed envelopes in any of the extra sets submitted.

Put all the Fee Schedules in one (1) labeled and sealed envelope with the "Original" set. Label the header or footer of each page of your Fee Schedule with the name of your company.

2. Fee Schedule is One of Several Evaluation Criteria

Based on the evaluation criteria set forth in Section I, entitled "Administrative Information," please note that the County will not necessarily choose the Proposer with the lowest rates for services.

If the Fee Schedule involves revenue in any form to the County, please also note that the County will not necessarily choose the Proposer with the highest rates for revenue to the County.

3. Additional Information

The Proposer should provide any additional information it deems necessary to explain or clarify its Fee Schedule.

4. Alternative Proposals

The Proposer may submit alternative Technical Proposals and alternative Fee Schedule, if there is more than one viable approach to performing the services.

5. Format for Fee Schedule

List any other anticipated costs to the County.

End of Text for Section V

Section VI

Model Agreement Subject to Negotiation

This Agreement ("Agreement") is between the **County of Suffolk ("County")**, a municipal corporation of the State of New York, acting through its duly constituted **Suffolk County Department of Economic Development & Workforce Housing, ("Department")**, located at the 100 Veterans Memorial Hwy., Second Floor, Hauppauge, NY, 11788; and the

Insert Name ("Contractor"), having its principal place of business at **Insert address**.

The parties hereto desire to retain the Contractor to provide services ("**Services**") for the **Suffolk County Department Department of Economic Development & Workforce Housing ("Department")**, as described in Exhibit D, entitled "Description of Services," attached.

Term of Agreement: Shall be from January 2010 through December 31, 2012.

Fee Schedule: Shall not exceed \$200,000.00 annually, as set forth in Exhibit E, attached.

Terms and Conditions: Shall be as set forth in Exhibits A through E; attached hereto and made a part hereof.

In Witness Whereof, the parties hereto have executed this Agreement as of the latest date written below.

Insert Legal Name of Contractor

By: _____
Name:
Title:
Fed. Tax ID #

Date: _____

Approved as to Legality:
Christine Malafi, County Attorney

By: _____
Name
Assistant County Attorney

Date: _____

County of Suffolk

By: _____
Deputy County Executive

Date: _____

Approved:
Suffolk County Department of Economic Development & Workforce Housing

By: _____
Name
Title
Date: _____

Recommended:

By: _____
Name
Title

Date: _____

List of Exhibits

Exhibit A General Terms and Conditions

1. Responsibilities of the Parties
2. Term and Termination
3. Indemnification
4. Insurance
5. Independent Contractor
6. Severability
7. Merger; No Oral Changes
8. Set-Off Rights
9. Governing Law
10. No Implied Waiver
11. Conflicts of Interest
12. Cooperation on Claims
13. Confidentiality
14. Assignment and Subcontracting
15. No Intended Third Party Beneficiaries
16. Certification as to Relationships
17. Publications and Publicity
18. Copyrights and Patents

Exhibit B Suffolk County Legislative Requirements

1. Contractor's/Vendor's Public Disclosure Statement
2. Living Wage Law
3. Use of County Resources to Interfere with Collective Bargaining Activities
Local Law No. 26-2003
4. Lawful Hiring of Employees Law
5. Gratuities
6. Prohibition Against Contracting with Corporations that Reincorporate Overseas
7. Child Sexual Abuse Reporting Policy
8. Non Responsible Bidder
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Exhibit C Notices and Contact Persons

Exhibit D Description of Services

Exhibit E Payment Terms

1. General Payment Terms and Conditions
2. Agreement Subject to Appropriation of Funds
3. Accounting Procedures
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5. Comptroller's Rules and Regulations for Consultant's Agreements
6. Specific Payment Terms and Conditions

Exhibit A
General Terms and Conditions

Whereas, the County advertised and issued a Request for Proposals ("RFP") on Insert Date; and

Whereas, the Contractor submitted a proposal in response to such RFP; and

Whereas, the County has selected the Contractor to provide the services as set forth herein;

Now Therefore, in consideration of the mutual provisions and covenants hereafter set forth, the parties hereto agree as follows:

1. Responsibilities of the Parties

The Contractor shall provide services, as more particularly described in Exhibit D, entitled "Description of Services."

The Contractor shall perform such professional services as may be necessary to accomplish the work required to be performed under and in accordance with this Agreement. The Contractor specifically represents and warrants that it has and shall possess, and that its employees, agents and subcontractors have and shall possess, the required education, knowledge and experience, if any, necessary to qualify them individually for the particular duties they perform.

2. Term and Termination

a. Term

This Agreement shall cover the period set forth on page one of this Agreement, unless sooner terminated as provided below. Upon receipt of a Termination Notice, as that term is defined below, the Contractor shall promptly discontinue all services affected, unless otherwise directed by the Termination Notice.

b. Termination for Cause

- i. Failure to maintain the amount and types of insurance required by this Agreement may result in immediate termination of this Agreement, in the sole discretion of the County.
- ii. Failure to comply with federal, state or local laws, rules, regulations, or County policies or directives, may result in immediate termination of this Agreement, in the sole discretion of the County.
- iii. If the Contractor becomes bankrupt or insolvent or falsifies its records or reports, or misuses its funds from whatever source, the County may terminate this Agreement in whole or with respect to any identifiable part of the program, effective immediately, or, at its option, effective at a later date specified in the notice of such termination to the Contractor.
- iv. In the event of a failure on the part of the Contractor to observe any of the other terms and conditions of this Agreement, this Agreement may be terminated, in whole or in part in writing by the County, provided that no such termination shall be effective unless the

Contractor is given five (5) calendar days' (or longer, at the County's option) written notice of intent to terminate ("Notice of Intent to Terminate"), delivered in accordance with the Exhibit entitled "Notices and Contact Persons." During such five (5) day period, (or longer, at the County's option) the Contractor will be given an opportunity for consultation with the County and an opportunity to cure all failures of its obligations prior to termination by the County. In the event that the Contractor has not cured all its failures to fulfill its obligations to the satisfaction of the County by the end of the five (5) day period (or longer, at the County's option), the County may issue a written termination notice ("Termination Notice"), effective immediately.

c. Termination for Emergencies

An emergency or other condition involving possible loss of life, threat to health and safety, destruction of property or other condition deemed to be dangerous, in the sole discretion of the County, may result in immediate termination of this Agreement, in whole or with respect to any identifiable part of the program, in the sole discretion of the County.

d. Termination for Convenience

The County shall have the right to terminate this Agreement at any time and for any reason deemed to be in its best interest, provided that no such termination shall be effective unless the Contractor is given thirty (30) calendar days' prior written notice ("Termination Notice"). In such event of termination, the County shall pay the Contractor for the services rendered through the date of termination.

e. Payments upon Termination

- i. Upon receiving a Termination Notice, the Contractor shall promptly discontinue all services affected unless otherwise directed by the Termination Notice.
- ii. The County shall be released from any and all responsibilities and obligations arising from the services provided in accordance with this Agreement, effective as of the date of termination, but the County shall be responsible for payment of all claims for services provided and costs incurred by the Contractor prior to termination of this Agreement, that are pursuant to, and after the Contractor's compliance with, the terms and conditions of this Agreement.
- iii. Upon termination, the Contractor agrees to promptly reimburse to the County, by check payable to the Suffolk County Treasurer, the balance of any funds advanced to the Contractor by the County. Upon termination, any funds paid to the Contractor by the County, which were used by the Contractor in a manner that failed to comply with the terms and conditions of this Agreement, must be promptly reimbursed. If there is no response, or if satisfactory repayments are not made, the County may recoup such payments from any amounts due, or becoming due, to the Contractor from the County under this Agreement or otherwise. The provisions of this subparagraph shall survive the expiration or termination of the Agreement.

3. Indemnification

a. General

The Contractor agrees that it shall protect, indemnify and hold harmless the County and its officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorney's fees, arising out of the acts or omissions or the negligence of the Contractor in connection with the services described or referred to in this Agreement. The Contractor shall defend the County and its officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or at the County's option, pay reasonable attorney's fees for defense of any such suit arising out of the acts or omissions or negligence of the Contractor, its officers, officials, employees, subcontractors or agents, if any, in connection with the services described or referred to in this Agreement.

b. Federal Copyright Act

The Contractor hereby represents and warrants the Contractor will not infringe upon any copyrighted work or material, in accordance with the Federal Copyright Act, during the performance of this Contract. Furthermore, the Contractor agrees that it shall protect, indemnify and hold harmless the County and its officers, officials, employees, contractors, agents and other persons from and against all liabilities, fines, penalties, actions, damages, claims, demands, judgments, losses, costs, expenses, suits or actions and reasonable attorney's fees, arising out of the acts or omissions or the negligence of the Contractor in connection with the services described or referred to in this Agreement. The Contractor shall defend the County and its officers, officials, employees, contractors, agents and other persons in any suit, including appeals, or, at the County's option, pay reasonable attorney's fees for defense of any such suit arising out of the acts or omissions or negligence of the Contractor, its officers, officials, employees, subcontractors, lessees, licensees, invitees or agents, if any, in connection with the services described or referred to in this Agreement.

4. Insurance

a. The Contractor agrees to procure, pay the entire premium for and maintain throughout the term of this Agreement, insurance in amounts and types specified by the County and as may be mandated and increased from time to time. The Contractor agrees to require that all of its subcontractors, in connection with work performed for the Contractor related to this Agreement, procure, pay the entire premium for and maintain throughout the term of this Agreement insurance in amounts and types equal to that specified by the County for the Contractor. Unless otherwise specified by the County and agreed to by the Contractor, in writing, such insurance shall be as follows:

- i. **Commercial General Liability** insurance, including contractual liability coverage, in an amount not less than two million dollars (\$2,000,000.00) per occurrence for bodily injury and two million dollars (\$2,000,000.00) per occurrence for property damage.
- ii. **Automobile Liability** insurance (if any vehicles are used by the Contractor in the performance of this Agreement) in an amount not less than five hundred thousand dollars (\$500,000.00) per person, per accident, for bodily injury and not less than one hundred thousand dollars (\$100,000.00) for property damage per occurrence.

- iii. **Worker's Compensation and Employer's Liability** insurance in compliance with all applicable New York State laws and regulations and **Disability Benefits** insurance, if required by law. The Contractor shall furnish to the County, prior to its execution of this Agreement, the documentation required by the State of New York Workers' Compensation Board of coverage or exemption from coverage pursuant to §§57 and 220 of the Workers' Compensation Law. In accordance with General Municipal Law §108, this Agreement shall be void and of no effect unless the Contractor shall provide and maintain coverage during the term of this Agreement for the benefit of such employees as are required to be covered by the provisions of the Workers' Compensation Law.
 - iv. **Professional Liability** insurance in an amount not less than two million dollars (\$2,000,000.00) on either a per-occurrence or claims-made coverage basis.
- b. All policies providing such coverage shall be issued by insurance companies with an A.M. Best rating of A- or better.
 - c. The Contractor shall furnish to the County Declaration Pages for each such policy of insurance and upon request, a true and certified original copy of each such policy, evidencing compliance with the aforesaid insurance requirements. In the case of commercial general liability insurance, the County of Suffolk shall be named as an additional insured and the Contractor shall furnish a Declaration Page and endorsement page evidencing the County's status as an additional insured on said policy.
 - d. All such Declaration Pages, certificates and other evidence of insurance shall provide for the County of Suffolk to be notified in writing thirty (30) days prior to any cancellation, nonrenewal or material change in said policies. Such Declaration Pages, certificates, policies and other evidence of insurance and notices shall be mailed to the Department at its address as set forth in this Agreement in the Exhibit entitled "Notices and Contact Persons" or at such other address which the County shall have given the Contractor notice in writing.
 - e. In the event the Contractor shall fail to provide the Declaration Pages or certificates of insurance or to maintain any insurance required by this Agreement, the County may, but shall not be required to, obtain such policies and deduct the cost thereof from payments due the Contractor under this Agreement or any other agreement between the County and the Contractor.

5. Independent Contractor

It is expressly agreed that the Contractor status hereunder is that of an independent contractor. Neither the Contractor, nor any person hired by the Contractor shall be considered employees of the County for any purpose.

6. Severability

It is expressly agreed that if any term or provision of this Agreement, or the application thereof to any person or circumstance, shall be held invalid or unenforceable to any extent, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and every other term and provision of this Agreement shall be valid and shall be enforced to the fullest extent permitted by law.

7. Merger; No Oral Changes

It is expressly agreed that this Agreement represents the entire agreement of the parties and that all previous understandings are merged in this Agreement. No modification of this Agreement shall be valid unless written in the form of an Amendment and executed by both parties.

8. Set-Off Rights

The County shall have all of its common law, equitable, and statutory rights of set-off. These rights shall include, but not be limited to, the County's option to withhold, for the purposes of set-off, any moneys due to the Contractor under this Agreement up to any amounts due and owing to the County with regard to this Agreement and/or any other agreement with any County department or agency, including any agreement for a term commencing prior to the term of this Agreement, plus any amounts due and owing to the County for any other reason including, without limitation, tax delinquencies, fee delinquencies or monetary penalties relative thereto. The County shall exercise its set-off rights in accordance with normal County practices including, in cases of set-off pursuant to an audit, the finalization of such audit by the County agency, its representatives, or the County Comptroller, and only after legal consultation with the County Attorney.

9. Governing Law

This Agreement shall be governed by and construed in accordance with the laws of the State of New York, without regard to conflict of laws. Venues shall be designated in Suffolk County, New York or the United States District Court for the Eastern District of New York.

10. No Implied Waiver

No waiver shall be inferred from any failure or forbearance of the County to enforce any provision of this Agreement in any particular instance or instances, but the same shall otherwise remain in full force and effect notwithstanding any such failure or forbearance.

11. Conflicts of Interest

- a. The Contractor agrees that it will not, during the term of this Agreement, engage in any activity that is contrary to and/or in conflict with the goals and purposes of the County.
- b. The Contractor is charged with the duty to disclose to the County the existence of any such adverse interests, whether existing or potential. This duty shall continue so long as the Contractor is retained on behalf of the County. The determination as to whether or when a conflict exists, or may potentially exist, shall ultimately be made by the County Attorney, after full disclosure is obtained.

12. Cooperation on Claims

The Contractor hereto agrees to render diligently to the County, without additional compensation, any and all cooperation, that may be required to defend the County, its employees and designated representatives against any claim, demand or action that may be brought against the County, its employees or designated representatives in connection with this Agreement.

13. Confidentiality

Any records, reports or other documents of the County or any of its agencies used by the Contractor pursuant to this Agreement or any documents created as a part of this Agreement shall remain the property of the County and shall be kept confidential in accordance with applicable laws, rules and regulations.

14. Assignment and Subcontracting

- a. The Contractor shall not assign, transfer, convey, sublet, or otherwise dispose of this Agreement, or any of its right, title or interest therein, or its power to execute this Agreement, or assign all or any portion of the monies that may be due or become due hereunder, to any other person or corporation, without the prior consent in writing of the County, and any attempt to do any of the foregoing without such consent shall be of no effect.
- b. The Contractor shall not enter into subcontracts for any of the work contemplated under this Agreement without obtaining prior written approval of the County. Such subcontracts shall be subject to all of the provisions of this Agreement and to such other conditions and provisions as the County may deem necessary, provided, however, that notwithstanding the foregoing, unless otherwise provided in this Agreement, such prior written approval shall not be required for the purchase of articles, supplies, equipment and services which are incidental to, but necessary for, the performance of the work required under this Agreement. No approval by the County of any subcontract shall provide for the incurrence of any obligation by the County in addition to the total agreed upon price. The Contractor shall be responsible for the performance of any subcontractor for the delivery of service.

15. No Intended Third Party Beneficiaries

This Agreement is entered into solely for the benefit of the County and the Contractor. No third party shall be deemed a beneficiary of this Agreement, and no third party shall have the right to make any claim or assert any right under this Agreement.

16. Certification as to Relationships

The parties to this Agreement hereby certify that, other than the funds provided in this Agreement and other valid Agreements with the County, there is no known relationship within the third degree of consanguinity, life partner, or business, commercial, economic, or financial relationship between the parties, the signatories to this Agreement, and any partners, members, directors, or shareholders of five percent (5%) (or more) of any party to this Agreement.

17. Publications and Publicity

- a. The Contractor shall not issue or publish any book, article, report or other publication related to the services provided pursuant to this Agreement without first obtaining written prior approval from the County. Any such printed matter or other publication shall contain the following statement in clear and legible print:

"This publication is fully or partially funded by the County of Suffolk."

- b. The Department shall have the right of prior approval of press releases and any other information provided to the media, in any form, concerning the services provided pursuant to this Agreement.

18. Copyrights and Patents

a. Copyrights

If the work of the Contractor under this Agreement should result in the production of original books, manuals, films or other materials for which a copyright may be granted, the Contractor may secure copyright protection. However, the County reserves, and the Contractor hereby gives to the County, and to any other municipality or government agency or body designated by the County, a royalty-free, nonexclusive license to produce, reproduce, publish, translate or otherwise use any such materials.

b. Patents

If the Contractor under this Agreement makes any discovery or invention in the course of or as a result of work performed under this Agreement, the Contractor may apply for and secure for itself patent protection. However, the County reserves, and the Contractor hereby gives to the County, and to any other municipality or government agency or body designated by the County, a royalty-free, nonexclusive license to produce or otherwise use any item so discovered or patented.

End of Text for Exhibit A

Exhibit B
Suffolk County Legislative Requirements

1. Contractor's/Vendor's Public Disclosure Statement

The Contractor represents and warrants that it has filed with the Comptroller of Suffolk County the verified public disclosure statement required by Suffolk County Administrative Code Article V, Section A5-7 and shall file an update of such statement with the said Comptroller on or before the 31st day of January in each year of this Agreement's duration. The Contractor acknowledges that such filing is a material, contractual and statutory duty and that the failure to file such statement shall constitute a material breach of this Agreement, for which the County shall be entitled, upon a determination that such breach has occurred, to damages, in addition to all other legal remedies, of fifteen percent (15%) of the amount of the Agreement.

Required Form: Suffolk County Form SCEX 22; entitled "Contractor's/Vendor's Public Disclosure Statement"

2. Living Wage Local Law 12-2001

This Agreement is subject to the Living Wage Law of the County of Suffolk. The law requires that, unless specific exemptions apply all employers (as defined) under service contracts and recipients of County financial assistance, (as defined) shall provide payment of a minimum wage to employees as set forth in the Living Wage Law. Such rate shall be adjusted annually pursuant to the terms of the Suffolk County Living Wage Law of the County of Suffolk. Under the provisions of the Living Wage Law, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

The Contractor represents and warrants that it has read and shall comply with the requirements of Suffolk County Code Chapter 347, Suffolk County Local Law No. 12-2001.

Required Forms: Suffolk County Living Wage Form LW-1; entitled "Suffolk County Department of Labor – Living Wage Unit Notice of Application for County Compensation (Contract)"

Suffolk County Living Wage Form LW-38; entitled "Suffolk County Department of Labor – Living Wage Unit Living Wage Certification/Declaration – Subject To Audit"

**3. Use of County Resources to Interfere with Collective Bargaining Activities
Local Law No. 26-2003**

The Contractor represents and warrants that it has read and is familiar with the requirements of Chapter 466, Article 1 of the Suffolk County Local Laws, "Use of County Resources to Interfere with Collective Bargaining Activities." County Contractors (as defined) shall comply with all requirements of Local Law No. 26-2003 including the following prohibitions:

- a. The Contractor shall not use County funds to assist, promote, or deter union organizing.
- b. No County funds shall be used to reimburse the Contractor for any costs incurred to assist, promote, or deter union organizing.

- c. The County of Suffolk shall not use County funds to assist, promote, or deter union organizing.
- d. No employer shall use County property to hold a meeting with employees or supervisors if the purpose of such meeting is to assist, promote, or deter union organizing.

If Contractor services are performed on County property the Contractor must adopt a reasonable access agreement, a neutrality agreement, fair communication agreement, nonintimidation agreement and a majority authorization card agreement.

If Contractor services are for the provision of human services and such services are not to be performed on County property, the Contractor must adopt, at the least, a neutrality agreement.

Under the provisions of Local Law No. 26-2003, the County shall have the authority, under appropriate circumstances, to terminate this Agreement and to seek other remedies as set forth therein, for violations of this Law.

Required Form: Suffolk County Labor Law Form DOL-LO1; entitled "Suffolk County Department of Labor – Labor Mediation Unit Union Organizing Certification/Declaration – Subject to Audit"

4. Lawful Hiring of Employees Local Law 52-2006

This Agreement is subject to the Lawful Hiring of Employees Law of the County of Suffolk (Local Law 52-2006). It provides that all covered employers, (as defined), and the owners thereof, as the case may be, that are recipients of compensation from the County through any grant, loan, subsidy, funding, appropriation, payment, tax incentive, contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or an awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit a completed sworn affidavit (under penalty of perjury), certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees (as defined) and with respect to the alien and nationality status of the owners thereof. The affidavit shall be executed by an authorized representative of the covered employer or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement with the County; and shall be made available to the public upon request.

All contractors and subcontractors (as defined) of covered employers, and the owners thereof, as the case may be, that are assigned to perform work in connection with a County contract, subcontract, license agreement, lease or other financial compensation agreement issued by the County or awarding agency, where such compensation is one hundred percent (100%) funded by the County, shall submit to the covered employer a completed sworn affidavit (under penalty of perjury), certifying that they have complied, in good faith, with the requirements of Title 8 of the United States Code Section 1324a with respect to the hiring of covered employees and with respect to the alien and nationality status of the owners thereof, as the case may be. The affidavit shall be executed by an authorized representative of the contractor, subcontractor, or owner, as the case may be; shall be part of any executed contract, subcontract, license agreement, lease or other financial compensation agreement between the covered employer and the County; and shall be made available to the public upon request.

An updated affidavit shall be submitted by each such employer, owner, contractor and subcontractor no later than January 1 of each year for the duration of any contract and upon the renewal or amendment of the contract, and whenever a new contractor or subcontractor is hired under the terms of the contract.

The Contractor acknowledges that such filings are a material, contractual and statutory duty and that the failure to file any such statement shall constitute a material breach of this Agreement.

Under the provisions of the Lawful Hiring of Employees Law, the County shall have the authority to terminate this Agreement for violations of this Law and to seek other remedies available under the law.

The Contractor represents and warrants that it has read, is in compliance with, and shall comply with the requirements of Suffolk County Code Chapter 234, Suffolk County Local Law No. 52-2006, the Lawful Hiring of Employees Law.

Required Forms: Suffolk County Lawful Hiring of Employees Law Form LHE-1; entitled "Suffolk County Department of Labor –"Notice Of Application To Certify Compliance With Federal Law (8 U.S.C. Section 1324a) With Respect To Lawful Hiring of Employees"

"Affidavit Of Compliance With The Requirements Of 8 U.S.C. Section 1324a With Respect To Lawful Hiring Of Employees" Form LHE-2

5. Gratuities Law No. 32-1980

The Contractor represents and warrants that it has not offered or given any gratuity to any official, employee or agent of Suffolk County or New York State or of any political party, with the purpose or intent of securing an agreement or securing favorable treatment with respect to the awarding or amending of an agreement or the making of any determinations with respect to the performance of an agreement, and that the signer of this Agreement has read and is familiar with the provisions of Local Law No. 32-1980 of Suffolk County (Chapter 386 of the Suffolk County Code).

6. Prohibition Against Contracting with Corporations that Reincorporate Overseas

The Contractor represents that it is in compliance with Suffolk County Administrative Code Article IV, §§A4-13 and A4-14, found in Suffolk County Local Law No. 20-2004, entitled "A Local Law To Amend Local Law No. 5-1993, To Prohibit The County of Suffolk From Contracting With Corporations That Reincorporate Overseas." Such law provides that no contract for consulting services or goods and services shall be awarded by the County to a business previously incorporated within the U.S.A. that has reincorporated outside the U.S.A.

7. Child Sexual Abuse Reporting Policy

The Contractor agrees to comply with Chapter 577, Article IV, of the Suffolk County Code, entitled "Child Sexual Abuse Reporting Policy", as now in effect or amended hereafter or of any other Suffolk County Local Law that may become applicable during the term of this Agreement with regard to child sexual abuse reporting policy.

8. Non Responsible Bidder

The Contractor represents and warrants that it has read and is familiar with the provisions of Suffolk County Code Chapter 143, Article II, §§ 143-4 through 143-9. Upon signing this Agreement the Contractor certifies that he, she, it, or they have not been convicted of a criminal offense within the last ten (10) years. The term "conviction" shall mean a finding of guilty after a trial or a plea of guilty to an offense covered under the provision of Section 143-5 of the Suffolk County Code under "Nonresponsible Bidder."

9. Use of Funds in Prosecution of Civil Actions Prohibited

Pursuant to the Suffolk County Code Section §590-3, the Contractor represents that it shall not use any of the moneys received under this Agreement, either directly or indirectly, in connection with the prosecution of any civil action against the County of Suffolk or any of its programs, funded by the County, in part or in whole, in any jurisdiction or any judicial or administrative forum.

10. Suffolk County Legislature Website – Laws of Suffolk County

Suffolk County Local Laws, Rules and Regulations are available free of charge at <http://legis.suffolkcountyny.gov/> under the "Search the Laws of Suffolk County" tab.

End of Text for Exhibit B

Exhibit C
Notices and Contact Persons

1. Notices Relating to Payments, Reports, Insurance, or Other Submissions

Any communication, notice, claim for payment, report, insurance, or other submission necessary or required to be made by the parties regarding this Agreement shall be in writing and shall be given to the County or the Contractor or their designated representative at the following addresses or at such other address that may be specified in writing by the parties and must be delivered as follows:

For the Department:
By Regular or Certified Mail in Postpaid Envelope or by
Nationally Recognized Courier Service or by Fax or by Email

**Suffolk County Department of Economic Development
& Workforce Housing
100 Veterans Memorial Hwy
Second Floor
Hauppauge, NY 11788
Attn: Nick Anastasi**

For the Contractor:
By Regular or Certified Mail in Postpaid Envelope or by
Nationally Recognized Courier Service or by Fax or by Email

At the address set forth on page one of this Agreement, attention of the person who executed this Agreement or such other designee as the parties may agree in writing.

2. Notices Relating to Termination and/or Litigation

In the event the Contractor receives a notice or claim or becomes a party (plaintiff, petitioner, defendant, respondent, third party complainant, third party defendant) to a lawsuit or any legal proceeding related to this Agreement, the Contractor shall immediately deliver to the County Attorney, at the address set forth below, copies of all papers filed by or against the Contractor.

Any communication or notice regarding termination shall be in writing and shall be given to the County or the Contractor or their designated representative at the following addresses or at such other addresses that may be specified in writing by the parties and must be delivered as follows:

For the County:
By Regular and Certified Mail in Postpaid Envelope or by
Nationally Recognized Courier Service

Christine Malafi, County Attorney
Suffolk County Department of Law
H. Lee Dennison Building
100 Veterans Memorial Highway
P.O. Box 6100

Rev. Insert date; Law No. 09-ED-079
Issue Date: November 19, 2009
RFP: For Advertising and Marketing Services

SC Purchasing RFP No. 09 90031
Commodity Code 918 76

Hauppauge, New York 11788

For the Contractor:
By Regular and Certified Mail in Postpaid Envelope or by
Nationally Recognized Courier Service

At the address set forth on page one of this Agreement, attention to the person who executed this Agreement or such other designee as the parties may agree in writing.

3. Notices shall be deemed to have been duly delivered (i) if mailed, upon the seventh business day after the mailing thereof; or (ii) if by nationally recognized overnight courier service, upon the first business day subsequent to the transmittal thereof; or (iii) if personally, pursuant to New York Civil Practice Law and Rules Section 311; or (iv) if by fax or email, upon the transmittal thereof. "Business Day" shall be defined as any day except a Saturday, a Sunday, or any day in which commercial banks are required or authorized to close in Suffolk County, New York.

4. Confirmation and Revisions for Contact Names

Each party shall provide, in writing, either confirmation or revisions, to the other party for all contact names required in paragraphs 1 and 2 above, on or before the 1st day of January in each year of this Agreement's duration. Notwithstanding the requirement for annual notification, each party is responsible to give prompt written notice to the other party of the appointment of successor(s) to the designated contact person(s) or his or her designated successor(s) required in paragraphs 1, 2 and 4 above.

End of Text for Exhibit C

Exhibit D
Description of Services

1. Reports/Progress Meetings

The Contractor will be responsible for issuing timely reports in oral presentations and in writing on the status of pending and proposed activities, as may reasonably be requested by the Department. Depending upon the nature of the services provided under this Agreement, the parties may meet from time to time; the meeting time, place and attendees shall be as mutually agreed upon by the parties. All written reports will also be made available to the County in electronic format.

2. Insert description of services as set forth in the RFP and/or as negotiated.

End of Text for Exhibit D

Exhibit E
Payment Terms

1. General Payment Terms

- a. The Contractor shall prepare and present a claim form supplied by the County and approved for payment by the County ("Suffolk County Payment Voucher"). Payment by the County will be made within thirty (30) days after approval by the Comptroller of the County of Suffolk.
- b. The Contractor agrees that it shall be entitled to no more than the fees set forth in this Exhibit E for the completion of all work, labor and services contemplated in this Agreement.
- c. The charges payable to the Contractor under this Agreement are exclusive of federal, state and local taxes, the County being a municipality exempt from payment of such taxes.
- d. The acceptance by the Contractor of full payment of all billings made on the final approved Suffolk County Payment Voucher under this Agreement shall operate as and shall be a release to the County from all claims and liability to the Contractor, its successors, legal representatives and assigns, for services rendered under this Agreement.

2. Accounting Procedures

- a. The Contractor agrees to maintain accounts, records, documents, and other evidence and accounting procedures and practices which sufficiently and properly reflect all direct and indirect costs of any nature expended in the performance of the Agreement in accordance with generally accepted accounting principles and as may be promulgated by the Suffolk County Department of Audit and Control and any financial directives promulgated by the Department.
- b. The Contractor agrees to retain all accounts, records and other documents relevant to this Agreement for seven (7) years after final payment. Federal, state and/or County auditors and any persons duly authorized by the County shall have full access and the right to examine any of said materials during said period.

2. Agreement Subject to Appropriation of Funds

This Agreement is subject to the amount of funds appropriated, and any subsequent modifications thereof, by the Suffolk County Legislature, and no liability shall be incurred by the Board or the County under this Agreement beyond the actual amount of funds appropriated by the Legislature for the Services covered by this Agreement.

3. Audit

All payments made under this Agreement are subject to audit by the Suffolk County Comptroller pursuant to Article V of the Suffolk County Charter. The Contractor further agrees that the County Comptroller and the Department shall have access to and the right to examine, audit, excerpt, copy or transcribe any pertinent transactions or other records relating to services under this Agreement. If the Contractor fails to cooperate with audit by the Comptroller, the County shall have the right to suspend or partially withhold payments under this Agreement or under any other agreement between the parties until such cooperation is forthcoming. If such an audit discloses overpayments by the County to the

Contractor, within thirty (30) days after the issuance of an official audit report by the Comptroller or his duly designated representatives, the Contractor shall repay the amount of such overpayment by check to the order of the Suffolk County Treasurer or shall submit a proposed plan of repayment to the Comptroller. If there is no response or if satisfactory repayments are not made, the County may recoup overpayments from any amounts due or becoming due to the Contractor from the County under this Agreement or otherwise. The provisions of this paragraph shall survive the expiration or termination of this Agreement.

4. Comptroller's Rules and Regulations for Consultant's Agreements

The Contractor shall comply with the "Comptroller's Rules and Regulations for Consultant's Agreements" as promulgated by the Department of Audit and Control of Suffolk County and any amendments thereto during the term of this Agreement. The County shall provide the Contractor with a copy of any amendments to the "Comptroller's Rules and Regulations for Consultant's Agreements" during the term of this Agreement.

5. Specific Payment Terms and Conditions

Insert specific terms and conditions as may be negotiated.

End of Text for Exhibit E